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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,318	07/31/2000	John D. Ah Sue	CISCO-2707	4368

7590 02/24/2005

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EXAMINER
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TRAN, THIEN D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/629,318	AH SUE, JOHN D.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thien D Tran	2665	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,8,10,13,15,16 and 21-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,8,10,13,15 and 16 is/are allowed.
- 6) ☒ Claim(s) 21-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 21, 23-26, 28, 30-33, 35 are rejected under 35 U.S.C. 102(e) as being participated by Chiu et al (U.S Patent No. 6,597,689 B1).

Regarding claims 21, 26, 28 Chiu discloses a method for auto-configuring a customer premises equipment device over an Asynchronous Transfer Mode (ATM) network, col.7 lines 45-50, the ATM network having a preexisting Permanent Virtual Circuit (PVC) at the loop site and the loop site is setup to configure with SVC by translation from PVC to SVC, col.19 lines 5-10 (*in SVC the identifiers of PVI and VCI are dynamically assigned whenever there is data for transmission, not permanently*

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*assigned as even there is no data for transmission as in the case of PVC.* Similar to which the customer premises equipment device is to be auto-configure), the method comprising:

receiving a plurality of ATM cells from a IMAS (digital subscriber line access multiplexer), col.16 lines 40-45;

checking values of VPI and VCI from ATM cells, the cell allowing the PVC line to be configured as SVC circuit (auto-configuring a Permanent Virtual Circuit) by obtaining a Virtual Path Identifier (VPI) and a Virtual Circuit Identifier (VCI) from said cell (col.17 lines 40-65);

configuring the PVC by obtaining said VPI and said VCI from a first ATM cell; and linking the PVC to a protocol, said protocol being applicable to DSL (col.25 lines 10-30).

Regarding claims 23, 30 Chiu discloses that protocol further includes Point-to-Point Protocol (PPP) interface or Request-For-Comments (RFC) bridge interface (col.15 line 60).

Regarding claims 24, 31, 35 Chiu discloses that receiving a plurality of messages from an aggregate router, said plurality of messages being a plurality of layer 2 (Link Control Protocol) configuration requests (col.84 lines 18-20).

Regarding claims 25, 32 Chiu discloses link including a bridge module, col.27 lines 20-35.

Regarding claim 33 Chiu discloses an Asynchronous Transfer Mode (ATM) communications system comprising: a digital subscriber line access module receiving said plurality of ATM cells; and

a customer premises equipment device having a mechanism which auto-configures a preexisting Permanent Virtual Circuit, (col.19 lines 5-10), said mechanism receiving an ATM cell, said mechanism checking said ATM cell for allowing configuring said PVC by reading a Virtual Path Identifier (VPI) and a Virtual Channel Identifier (VCI) from said OAM, said mechanism linking said PVC to a Point-to-Point Protocol interface or an RFC 1483 bridge interface (col.28 lines 35-60).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 22, 27, 29, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu et al (U.S Patent No. 6,597,689 B1).

Regarding claims 22, 27, 29, 34 Chiu does not disclose that the elapse time between a previous ATM cell and the first ATM cell is at least 800 milliseconds. However, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to have the elapse time between ATM cells at least 800 milliseconds since it has been held that where the general conditions of the claims are

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optimum or working ranges that involves only routine skill in the art. In re Aller, 103 USPQ 233.

***Allowable Subject Matter***

5. The following is an examiner's statement of reasons for allowance:

Regarding claims 1, 8, 13, and 15 the prior arts fail to teach or fairly suggest a method or a system or an apparatus or a program storage device for a CPE to auto-configure itself, wherein the method or the system or the apparatus or the program storage device comprises:

Checking a plurality of ATM cells for an OAM cell, the OAM cell allowing the PVC to be directly auto-configured by having the CPE by itself obtain a VPI and a VCI from the OAM cell.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thien Tran whose telephone number is (571) 272-3156. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

Patent Examiner

Thien Tran

**DUCHO**  
**PRIMARY EXAMINER**



2-17-05